



Office of the Attorney General

State of Texas

February 4, 1997

DAN MORALES
ATTORNEY GENERAL

Mr. Fred H. Stansbury
Chief of Police
City of Taylor
400 North Main
P. O. Box 810
Taylor, Texas 76574

OR97-0233

Dear Mr. Stansbury:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 103421.

The City of Taylor Police Department (the "department"), received a request for "a copy of the investigation recently conducted concerning a complaint that [the requestor] filed regarding Officer McLean." You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.301 of the Government Code provides that a governmental body must ask the attorney general for a decision as to whether requested documents must be disclosed not later than the tenth calendar day after the date of receiving the written request. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302.

The department received the written request for information on October 7, 1996. However, you did not request a decision from this office until November 5, 1996, more than ten days after the requestor's written request.¹ Therefore, we conclude that the

¹You have submitted a letter, dated October 22, 1996, which also appears to be more than ten days after the requestor's written request was received by the department, in which the city clerk advises the requestor that the requested information is "protected by the privacy laws and consequently cannot be furnished by the City."

department failed to meet its ten-day deadline for requesting an opinion from this office. Because the department did not request an attorney general decision within the deadline provided by section 552.301(a), the requested information is presumed to be public information. Gov't Code § 552.302; *see Hancock*, 797 S.W.2d 379; *City of Houston v. Houston Chronicle Publishing Co.*, 673 S.W.2d 316, 323 (Tex. App.--Houston [1st Dist.] 1984, *no writ*); Open Records Decision Nos. 319 (1982), 195 (1978).

This presumption can be overcome only by a demonstration that the information is confidential by law or that other compelling reasons exist as to why the information should not be made public. *See, e.g.*, Open Records Decision Nos. 195 (1978), 150 (1977). Normally, a compelling interest is demonstrated when some other source of law makes the information confidential or when third party interests are at stake.² Open Records Decision No. 150 (1977) at 2. We note that you have not shown such a compelling interest. Therefore, in the absence of a compelling interest, you must release the requested information.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Sam Haddad
Assistant Attorney General
Open Records Division

SH/cbh

Ref.: ID# 103421

Enclosure: Submitted information

cc: Ms. Janie Salazar
1108 W. 7th Street
Taylor, Texas 76574
(w/o enclosures)

²We note that after reviewing the submitted information, we do not find any information that is protected by privacy. *See* Open Records Decision Nos. 514 (1988), 479 (1987) (governmental bodies are prohibited from entering into contracts to keep information confidential). Specifically, information is not confidential under the Open Records Act simply because the party submitting it to a governmental body anticipates or requests that it be kept confidential. Open Records Decision No. 479 (1987).